

Report on
Market Conduct Examination

of

Builders Mutual Insurance Company
Builders Premier Insurance Company

Raleigh, North Carolina

by Representatives of the
North Carolina Department of Insurance

as of

July 29, 2024

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Raleigh, North Carolina
July 29, 2024

Honorable Mike Causey
Commissioner of Insurance
Department of Insurance
State of North Carolina
3200 Beechleaf Court
Raleigh, North Carolina 27604

Honorable Commissioner:

In accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131 through 58-2-134, a compliance examination has been made of the market conduct activities of the following entities:

Builders Mutual Insurance Company (NAIC #10844)
Builders Premier Insurance Company (NAIC #13036)
NAIC Exam Tracking System Exam Number: NC-HOWENC-7
Raleigh, North Carolina
(hereinafter generally referred to as the Companies)

The examination was conducted at the North Carolina Department of Insurance (Department) office located at 3200 Beechleaf Court, Raleigh, North Carolina. A report thereon is respectfully submitted.

SCOPE OF EXAMINATION

This examination commenced on January 16, 2024, and covered the period of July 1, 2021, through December 31, 2022. Analyses of certain operations of the Companies were concluded during the Wrap-Up Conference which was held on May 29, 2024. This action was taken to determine if corrective actions have been taken by the Companies to address previous examination findings contained in the Market Conduct Report of November 18, 2020.

This examination was performed in accordance with auditing standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC). The scope of this examination was not comprehensive and consisted of an examination of the Companies' practices and procedures in underwriting and rating, terminations, and claims practices. The findings and conclusions contained within the report are based solely on the work performed and are referenced within the appropriate sections of the examination report.

It is the Department's practice to cite companies in violation of a statute or rule when the results of a sample show errors/noncompliance that fall outside certain tolerance levels. The Department applied a 0 percent tolerance level for consumer complaints, producers and adjusters who were not appointed and/or licensed, and the use of forms and rates/rules that were neither filed with nor approved by the Department; 7 percent for claims; and 10 percent for all other areas reviewed. When errors are detected in a sample, but the error rate is below the applicable threshold for citing a violation, the Department issues a reminder to the company.

Previous Examination Findings

A general examination covering the period January 1, 2016, through December 31, 2018, was performed on the Companies and a report dated November 18, 2020, was issued. The examination report identified concerns in the areas of underwriting and rating, terminations, and claims practices. Specific previous violations relating to these areas are listed within the appropriate sections of this report.

EXECUTIVE SUMMARY

This market conduct examination revealed concerns with Company procedures and practices in the following areas:

Underwriting and Rating – Commercial automobile: rating errors; producers not licensed and/or appointed; did not collect two forms of proof of residency or eligible risk status; did not maintain safeguards to identify misrepresentations by applicants.

Terminations – Nonrenewals: reasons not precise.

Claims Practices – Subrogated claims: delays in reimbursing the insured's deductible.

Specific violations are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Web site <https://www.ncdoi.gov/insurance-industry/market-regulation>.

This examination identified statutory violations which may extend to other jurisdictions. The Companies are directed to take immediate corrective action to demonstrate their ability and intention to conduct business in North Carolina according to its insurance laws and regulations.

All statutory violations may not have been discovered or noted in this report. Failure to identify statutory violations in North Carolina or in other jurisdictions does not constitute acceptance of such violations.

UNDERWRITING AND RATING

Commercial Automobile

The Companies' underwriting practices and procedures for active commercial automobile policies were reviewed again to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

The previous examination revealed the following:

- The Companies were deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Companies for two of the active policies reviewed (4.0 percent error ratio).

- The Companies were deemed to be in violation of the provisions of NCGS 58-2-164(c2) as two forms of reliable proof of North Carolina residency or eligible risk status were not obtained at the time of application for 15 of the active policies reviewed (30.0 percent error ratio).
- The Companies were deemed to be in violation of the provisions of NCGS 58-41-50(f) as seven of the active policies (14.0 percent error ratio) reviewed were rated incorrectly. The rating errors consisted of the following:
 - Three policies were rated using incorrect territories.
 - Two policies covering physical damage on non-fleet private passenger type vehicles were rated incorrectly using price symbols instead of comprehensive and collision symbols.
 - Two policies were rated without proper application of the dumping factor.
 - One policy was rated using an incorrect size factor.

The Companies provided a listing of 335 active commercial automobile policies issued during the period under examination. Fifty policies were randomly selected for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-33-26 and 58-33-40 as the producer was not properly appointed by the Companies for five active policies reviewed (10.0% error ratio).
- The Companies were reminded of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(4),(e) as the producer information was not included on the application for two active policies reviewed.
- The Companies were deemed to be in violation of the provisions of NCGS 58-33-5 and 58-33-26 as the producer was not properly licensed in the state of North Carolina at the time of application for one active policy reviewed (2.0% error ratio).
- The Companies were again deemed to be in violation of the provisions of NCGS 58-2-164(c2) as two forms of reliable proof of North Carolina residency or eligible risk status were not obtained at the time of application for 17 of the active policies reviewed (34.0% error ratio).
- The Companies were deemed to be in violation of the provisions of NCGS 58-2-164(f) as safeguards were not maintained at the point of sale to identify misrepresentations by applicants regarding the places their motor vehicles are garaged for 50 active policies reviewed (100% error ratio).
- The Companies were again deemed to be in violation of the provisions of NCGS 58-41-50(f) as 11 of the active policies reviewed (22.0% error ratio) contained rating errors. The rating errors consisted of the following:

- Five policies were rated using incorrect territories.
- Two policies were rated without application of the recoupment surcharge.
- Two policies were rated using an improper fleet classification.
- Two policies were rated using incorrect rate modification factors.

The rating errors resulted in six premium overcharges and five premium undercharges to the insureds. At the request of the examiners, refunds in the amount of \$869.80, including interest, were issued by the Companies for the overcharges. The remaining premiums charged were deemed correct.

TERMINATIONS

Commercial Automobile Nonrenewals

The Companies' nonrenewal procedures were reviewed again to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions, and the applicable policy manual rules.

The previous examination revealed the following:

- The Companies were deemed to be in violation of the provisions of NCGS 58-41-20(e) as five of the policies reviewed (10.9 percent error ratio) were nonrenewed using reasons that were not precise.

The Companies provided a listing of 19 commercial automobile policies that were nonrenewed during the period under examination. All were selected for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-41-20(e) as two of the policies reviewed were nonrenewed using reasons that were not precise (10.5% error ratio).
- The Companies were reminded of the provisions of NCGS 58-1-20(b) as an improper form of delivery was utilized that resulted in undue delay in the insured's receipt of the termination notice for one file reviewed (5.3% error ratio).

CLAIMS PRACTICES

Subrogated Claims

The Companies' claims practices were reviewed again to determine compliance with the appropriate North Carolina statutes and rules and policy provisions. The license status for each claim adjuster was reviewed to determine if the adjuster was properly licensed at the time of the claim handling.

The previous examination revealed the following:

- The Companies were deemed to be in violation of the provisions of NCGS 58-63-15(11)(b) as 19 of the claims reviewed (38.0% error ratio) had delays in reimbursing the insured's deductible.

The Companies provided a listing of 78 claims for which the Companies pursued subrogation during the period under examination. Fifty claims were selected for review. **The current examination revealed the following:**

- The Companies were again deemed to be in violation of the provisions of NCGS 58-63-15(11)(b) as four claims reviewed had delays in reimbursing the insured's deductible (8.0% error ratio).

COMMENTS, RECOMMENDATIONS AND DIRECTIVES

The Companies are directed to put procedures in place that verify rating components are correct, including territory codes, rate modification factors, fleet factors and recoupment surcharges.

The Companies are directed to clearly state a precise reason for termination on the termination notice when commercial automobile policies are nonrenewed.

The Companies are directed to return the insured's deductible within seven calendar days after the receipt of a monetary settlement on a subrogated claim.

The Companies are directed to ensure that producers representing the Companies are properly licensed and appointed, and their identification information is correctly displayed on any applications submitted for coverage.

The Companies are directed to maintain safeguards at the point of sale to identify misrepresentations by applicants regarding the places their motor vehicles are garaged.

Upon acceptance of the Report the Companies shall provide the Department with a statement of corrective action plan to address the violations identified during the examination. The Department will conduct a future investigation, if warranted, to determine if the Companies successfully implemented their statement of corrective action.

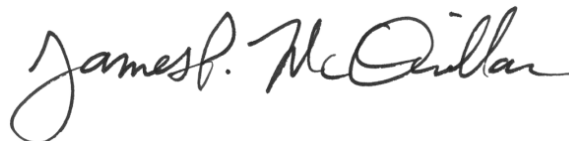
CONCLUSION

A compliance examination has been conducted on the market conduct affairs of Builders Mutual Insurance Company and Builders Premier Insurance Company for the period July 1, 2021, through December 31, 2022, with analyses of certain operations of the Companies being conducted through May 29, 2024.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures, including analyses of Company operations in the areas of underwriting and rating, terminations, and claims practices.

In addition to the undersigned, Paula Posey, AINS, MCM, and Alex Auman, CLCS, MCM, North Carolina Market Conduct Senior Examiners, participated in this examination.

Respectfully submitted,



James P. McQuillan, CPCU, AIT, MCM
Examiner-In-Charge
Market Regulation Division
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.

A handwritten signature in black ink that reads "Teresa Knowles". The signature is written in a cursive style with a large initial 'T' and a long, sweeping underline.

Teresa Knowles, ACS, MCM
Deputy Commissioner
Market Regulation Division
State of North Carolina